

November 16, 2009

California Air Resources Board
1001 I St.
Sacramento, CA

Re: RES Concept Outline

To Whom It May Concern:

The following are comments about the Renewable Electricity Standard concept outline. The California Hydropower Reform Coalition (CHRC) is a statewide coalition of over 30 national, state, and regional conservation, fishing, and recreation organizations. CHRC's mission is to restore rivers primarily through the FERC hydropower relicensing process and policy reform.

Regulation Schedule

We are concerned that such a complex issue as renewable energy is being conducted in an extremely short timeframe, especially since renewable energy is not an area of expertise of the ARB. We understand that the CEC and CPUC are also involved. Nevertheless, the scope of the rulemaking requires a significant amount of information, analysis, and discussion, which an abbreviated timeframe makes extremely challenging. If additional time is needed in order to adequately analyze and develop the regulation, then the timeframe should be extended.

Legal Authority and Requirements

We would like clarification about the following:

- The concept outline says "staff's objective is to develop a RES regulation which builds upon and complements the existing RPS program." Does this mean the intent is that the rule will be consistent with the existing RPS program, or, for example, is it possible that there will be new renewable energy definitions, and other differences with the current RPS program, for the 20 to 33 percent energy increment?
- Is the Legislature required to review and approve the final rule?

Eligible Resources and Geographic Eligibility

There should be no changes to the current definition of RPS-eligible resources. Specifically, there should be no change to the current definition of hydro to, for example, allow hydro from British Columbia to be RPS-eligible. Doing so would mean CA's current laws would be weakened and would result in one standard for CA and a lesser standard for out-of-state resources. As BC's rivers are in relatively pristine condition, developing hydro there will result in significant adverse impacts. This would mean CA would be importing energy, but exporting environmental impacts. Facilitating hydro development in BC would be inconsistent with and undermine CA's reputation as the nation's leader in environmental protection, especially when

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CHRC Steering Committee:

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the required renewable energy can be developed in CA, which will help spur needed economic development here.

There is also no need for a study to determine if hydro from BC should be RPS-eligible. PG&E's June 20, 2008 "BC Renewable Study Phase 1" report (attached) submitted to the CPUC says:

- "BC ROR (run-of-river) hydro facilities would not be qualified as RPS eligible resources" in CA. (page 7)
- "BC ROR hydro facilities would not meet any of these criteria," i.e. CA regulations. (page 8)

The hydro definition should also not be changed to allow hydro larger than 30 MW to be RPS-eligible. The purpose of the RPS is to increase the development of new renewables. Allowing existing hydro to be RPS-eligible only facilitates the attainment of the RPS requirement by producers, without getting anything in return, and would undercut the need to develop new renewables.

Moreover, over the last several years, contrary to the claims that BC environmental laws are as strong as CA's, BC has enacted laws weakening its environmental standards:

- Bill 38 makes environmental reviews for projects less than 50 MW voluntary, which is why a number of hydro projects are 49 MW (Bill 38 analysis attached).
- Bill 30 strips project decision-making authority from local officials by allowing the provincial government to overrule local decisions (attached: Abram letter). Local authorities voted 8 to 1 against the 49 MW Ashlu project because of its adverse impacts, but the provincial government overturned the decision and the project is currently being developed.
- Diverting 85 to 95 percent of streamflow for power generation is common. For example, the project developer for the East Toba River and Montrose Creek project proposed diverting 95 percent of streamflow. The BC Environmental Assessment Office (EAO) first expressed concern that the diversion was more than its guidelines. The developer responded they needed that amount to make the project economically viable. The EAO then approved the diversion. (EAO assessment attached, see pages 53 and 54). The project is currently being constructed.
- BC does not conduct cumulative impacts assessment, despite the fact that often there are a number of projects in a single watershed.
- Project proponents claim that projects are sited in non-fish-bearing rivers or above natural fish barriers. Local advocates, however, have cited numerous examples where this is not the case.

Additionally, the Canadian Broadcasting Corporation reports (attached) that "Inspection reports and emails obtained by CBC News show B.C. government officials have raised concerns about environmental infractions during the construction of the rapidly growing number of run-of-river private power projects in the province." This includes "sloppy construction that could damage streams," and "overcutting old-growth forest." A Vancouver Sun article (attached) says "Some

independent power producers are ignoring environmental regulations aimed at protecting old-growth forests, wildlife and streamside habitat, leaked BC government documents suggest.”

The broader BC context is that power production was privatized several years ago. Currently according to BC’s EAO, there are over 600 applications for hydro projects in BC. Locals refer to it as a “gold rush.” Companies will make huge profits by exploiting and despoiling public resources.

Miscellaneous

As more renewable energy is developed, it is critical to ensure that GHG-emitting sources are displaced. Not doing so will mean increasing renewable energy development will have a limited impact in reducing GHG emissions.

Thank you for your consideration of these comments. We look forward to continuing to work with you on this.

Sincerely,

A handwritten signature in black ink, appearing to read "Keith Nakatani". The signature is fluid and cursive, with the first name "Keith" being more prominent than the last name "Nakatani".

Keith Nakatani
Director